

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

POST OFFICE SQUARE LLC and
LARRY WEINSTEIN,

Plaintiff,

v.

VILLAGE OF SPRING VALLEY and
VILLAGE OF SPRING VALLEY BOARD OF
TRUSTEES, ALAN SIMON, MAYOR OF
SPRING VALLEY,

Defendant.

Civil Action No.

COMPLAINT
ACTION FOR DAMAGES

The Plaintiffs as and through their attorneys, complaining of the Defendants herein, respectfully allege as follows:

INTRODUCTION

1. This is an action seeking recovery for damages and declaratory relief regarding violations to the property rights of the Plaintiffs by actions of the Defendants in this matter.
2. The basis of this action is that the Defendants have wrongfully interfered with and taken the property of the Plaintiffs as part of a continued conspiracy to deprive the Plaintiffs of their constitutionally protected right to property.

PARTIES, JURISDICTION AND VENUE

3. At all times relevant herein, the Plaintiffs, Post Office Square LLC, is a limited liability company existing under and by virtue of the laws of the State of New York with office located at 7 Stillo Drive, Airmont, New York 10952.

4. At all times relevant herein, that Plaintiff, Larry Weinstein, was a managing member of Post Office Square LLC and resides at 7 Stillo Drive, Airmont, New York 10952.

5. At all times relevant herein, the Defendant, Village of Spring Valley, (hereinafter referred to as the “Defendant Village”) is and was a municipal corporation operating and existing under and by virtue of the laws of the State of New York and is located in the County of Rockland, State of New York.

6. At all times relevant herein, the Defendant, Village of Spring Valley Board of Trustees (hereinafter referred to as the “Defendant Board of Trustees”) is a duly elected Board of Trustees of the Defendant Village.

7. At all times relevant herein, Defendant Alan Simon (hereinafter “Defendant Mayor”) is a duly elected Mayor of the Village of Spring Valley, County of Rockland, State of New York.

8. That the Defendant Board and Defendant Mayor, in his official capacity as a member of the Defendant Board, have the power and jurisdiction to initiate and/or approve of the commencement of legal and/or court actions on behalf of the Defendant Village.

9. This is an action arising under 42 U.S.C. §1983 and jurisdiction is founded upon 28 U.S.C. §1331 and 28 U.S.C. §1343.

10. The venue of this matter is established under 28 U.S.C. §1391(b)(1) as this is the judicial district where all the Defendants reside or have an office and this is the judicial district in which a substantial part of the events or omissions giving rise to the claim occurred.

BACKGROUND OF THE ACTION

11. That on or about November 13, 2009, the Village entered into a development agreement with the Plaintiff, Post Office Square LLC, for the development of an approximately 32,600 square feet, three-story commercial mixed use structure (with parking) on a blighted parcel in the Village of Spring Valley.

12. Pursuant to the aforesaid development agreement, Defendant Village was to convey the property known as Post Office Square located at 23 Church Street (Section 57.39, Block 1, Lot 13) in the Village of Spring Valley, State of New York, for development of a blighted parcel (hereinafter referred to as the “property at issue”).

13. That Defendant, Post Office Square LLC acquired title to the property at issue by deed from the Defendant Village on January 14, 2013, recorded February 5, 2013, under instrument number 2013-5186 with the Rockland County Clerk.

14. That on or before April 17, 2018, the Plaintiff substantially completed the development of the property at issue.

15. That on or before April 17, 2018, the Plaintiffs had spent approximately \$2.5 million on the improvements for the land and construction of the building and property at issue.

16. Prior to December 13, 2017, a building permit was issued and subsequent extensions had been granted. The Plaintiff paid \$29,188.50 for the aforesaid permit.

17. Also, by on or about December 13, 2017, while a building permit had previously expired, the Plaintiff paid a fine to the Defendant Village, for the same, in the amount of \$14,375.

18. Then, on December 13, 2017, the deputy building inspector issued Plaintiffs a building permit “to finish construction” of the building at issue on the property at issue.

19. In addition to the aforementioned fine, the Plaintiffs paid the Village approximately \$5,900 for the aforesaid building permit issued on December 13, 2017.

20. Said building permit, dated December 13, 2017, through December 13, 2018 and only expires if no work is commenced. The aforesaid building permit is hereinafter referred to as the “building permit at issue”.

21. Notwithstanding that the Plaintiffs have vested property rights, hold the deed to the property at issue, and have a valid building permit, on April 17, 2018 by Verified Complaint (Rockland County Supreme Court Index #032220/2018) against the Plaintiffs herein, the Defendant Village proclaimed therein, that it had exercised the reverted clause in said development agreement and declared that the Plaintiffs “no longer have any interest in the property.”

22. That the aforesaid Rockland County Supreme Court action was executed, planned, initiated, and/or commenced by and/or through the approval of the Defendant Board and the Defendant Mayor.

23. That upon information and belief the Defendant Mayor executed a plan to take back and/or revert back the property at issue to the Defendant Village and to initiate said Rockland County Supreme Court action because the Defendant Village had taken approximately seven figures in Federal Government funds for affordable housing and needs a project(s) to account for same in order to maintain the aforesaid funds.

24. Based on the aforesaid Verified Complaint and declarations made therein by the Defendant Village, the Plaintiff, Larry Weinstein’s, business partners pulled out of investing in the property at issue.

25. That prior to April 17, 2018, the Defendants knew of the existence of the Plaintiffs' business partners, that a significant and a substantial amount of the property at issue had already been developed and that a small percentage of funds was necessary to complete the project in comparison to the approximately \$2.5 million the Plaintiffs previously invested in the project at issue.

26. Additionally, said Verified Complaint and declarations made therein had and have a chilling effect on the Plaintiffs' ability to make any further improvements on the property at issue which Defendants claim ownership therein.

27. As of April 17, 2018, the Plaintiffs spent at least \$2.5 million on the improvements for the land and construction of the building and property at issue among other costs, have paid an additional approximately \$35,088.50 for the building permit(s) which does not expire until December 13, 2018 and only if no work has been commenced.

28. That on or about December 13, 2017, the Defendants knew or should have known that a substantial and/or significant portion of the construction project at issue was completed with an estimated cost of just \$350,000 to finish; as same is set forth on the building permit issued by the Defendant Village's deputy building inspector on the aforesaid date.

29. Also, between December 13, 2017 and April 17, 2018 the Plaintiffs also continued to improve the property (pursuant to the building permit at issue and the description of the work set forth therein), including but not limited to, the following: cleaning the building; preparing the building for insulation; framing work; finishing the utility room and preparing same for installation of telephones; yard cleanup; sidewalk paver repair; and maintenance and testing of the sprinkler system.

30. Notwithstanding same, on April 17, 2018, the Defendants initiated the aforementioned action in the Rockland County Supreme Court, declared that the property reverted back to the Defendant Village and declared that the Plaintiffs “no longer have any interest in the property.”

31. Based on the foregoing, the Plaintiffs have an established vested right in the property at issue and the planned construction of the property at issue and the Defendants have wrongfully interfered with same and taken the property at issue.

AS AND FOR A FIRST CLAIM FOR RELIEF

32. The Plaintiffs repeat and reallege each and every allegation as set forth in Paragraphs “1” through “31” as though set forth in full herein.

33. As a direct result of the actions and course of conduct of the Defendants, the said Defendants under color of law have caused Plaintiffs to be subjected to the deprivation of rights, privileges, immunities guaranteed by the Constitution of the United States in violation of 42 U.S.C. §1983 and as further alleged in this cause of action.

34. The actions and course of conduct of the Defendants in executing and implementing the policies and customs of the Defendants, may fairly be said to represent the official policies of the Defendants, and such actions and course of conduct inflicted and threatened to inflict injury o the Plaintiffs.

35. Pursuant to the actions and course of conduct of the Defendants hereinabove described, and as a direct result of said actions and course of conduct as applied to the Plaintiffs, Plaintiffs’ property has been unlawfully taken by the Defendant without payment of compensation in violation of the 14th Amendment of the United States Constitution.

36. As a direct result of the actions and course of conduct of the Defendants as applied to the Plaintiffs, the Defendants have deprived the Plaintiffs of substantial enough interest in his property without adhering to the requirements and protection of due process of law. The Defendants denied Plaintiffs adequate notice and opportunity to be heard as required by due process of law in violation of the 14th Amendment of the United States Constitution. Further, the actions and course of conduct of the Defendants as applied to Plaintiffs were arbitrary, capricious and did not substantially advance any legitimate state interest and are violative of Plaintiffs' right to substantive due process in violation of the 14th Amendment of the Constitution of the United States and said actions constitute a "taking".

37. The Plaintiffs have suffered damages and are entitled to recovery from the Defendants by reason of the actions and course of conduct hereinabove described.

38. Pursuant to the provisions of 42 U.S.C. §1983 wherein the Defendants have violated the Plaintiffs' rights under color of law, said violations give rise to an action at law and equity and other proper remedies and redress in this Court.

39. Plaintiffs pursuant to provisions of 42 U.S.C. §1983 seeks such restitution of monetary damages as may be afforded as concomitant to the proper relief sought by the Plaintiffs in this claim.

40. The monetary relief is such that the Plaintiffs are entitled to otherwise recover on the facts herein against the Defendants pursuant to provisions of 42 U.S.C. §1983.

41. By reason of the foregoing, the Plaintiffs are entitled to Judgment as a matter of law as well as a declaration, (that by way of and/or through the Verified Complaint) that the declarations made by the Defendants, that the property at issue reverted to the Defendants and/or

that the Plaintiffs “no longer have an interest in the property” is unconstitutional and/or without a hearing and a right to be heard is unconstitutional.

42. Pursuant to 42 §1983 and 1988 Plaintiffs are entitled to monetary damages and their attorneys fees in this proceeding.

43. In addition and by reason of the foregoing, the actions of the individual Defendant Mayor were so wanton and reckless and contrary to the public good that punitive damages should be assessed in the amount of Thirty Million (\$30,000,000.00) Dollars and 00/100.

44. No other application has been made for the relief requested herein.

WHEREFORE, the Plaintiffs respectfully pray for the relief requested in the Complaint herein to be granted; together with such other and further relief as this Court may deem just and proper.

DEMAND FOR A JURY TRIAL

Plaintiffs hereby demands a trial by jury on all issues so triable.

Dated: October 22, 2018

Yours, etc.

By: /s/ Kevin T. Conway
Kevin T. Conway, Esq. (KC-3347)
664 Chestnut Ridge Road
Spring Valley, New York 10977-6201
T: 845-352-0206
F: 845-352-0481
E-mail: ktcmaibu@gmail.com
Attorney for Plaintiffs